

the Established Income Range to accept units in developments with incomes above the Established Income Range, or vice versa, including rent incentives, affirmative marketing plans, or added amenities;

(B) Targeting investment and capital improvements toward developments with an average income below the Established Income Range to encourage applicant families whose income is above the Established Income Range to accept units in those developments;

(C) Establishing a preference for admission of working families in developments below the Established Income Range;

(D) Skipping a family on the waiting list to reach another family in an effort to further the goals of the PHA's deconcentration policy;

(E) Providing such other strategies as permitted by statute and determined by the PHA in consultation with the residents and the community, through the PHA Annual Plan process, to be responsive to the local context and the PHA's strategic objectives.

(2) *Determination of compliance with deconcentration requirement.* HUD shall consider a PHA to be in compliance with this subpart if:

(i) The PHA's income analysis shows that the PHA has no general occupancy family developments to which the deconcentration requirements apply; that is, the average incomes of all covered developments are within the Established Income Range;

(ii) The PHA has covered developments with average incomes above or below the Established Income Range and the PHA provides a sufficient explanation in its Annual Plan that supports that the income mix of such development or developments is consistent with and furthers the goal of deconcentration of poverty and income mixing and also the locally determined goals of the PHA's Annual and Five Year Plans, and the PHA therefore need not take further action to deconcentrate poverty and mix incomes; or

(iii) The PHA's deconcentration policy provides specific strategies the PHA will take that can be expected to promote deconcentration of poverty and income mixing in developments

with average incomes outside of the Established Income Range.

(3) *Right of return.* If a PHA has provided that a family that resided in a covered public housing development has a right to admission to a public housing unit in that development after revitalization, the requirements of paragraph (c) of this section do not preclude fulfilling that commitment or a PHA's commitment to return a family to another development after revitalization.

(4) *Family's discretion to refuse a unit.* A family has the sole discretion whether to accept an offer of a unit made under a PHA's deconcentration policy. The PHA may not take any adverse action toward any eligible family for choosing not to accept an offer of a unit under the PHA's deconcentration policy. In accordance with the PHA's established policies, the PHA may uniformly limit the number of offers received by applicants.

(5) *Relationship to income targeting requirement.* Nothing in this section relieves a PHA of the obligation to meet the requirement to admit annually at least 40 percent families whose incomes are below 30 percent of area median income as provided by section 16(a)(2) of the 1937 Act, 42 U.S.C. 1437n(a)(2).

(d) *Relationship between poverty deconcentration and fair housing.* The requirements for poverty deconcentration in paragraph (c) of this section and for fair housing in 24 CFR 903.15(d) arise under separate statutory authorities.

[65 FR 81222, Dec. 22, 2000, as amended at 67 FR 51033, Aug. 6, 2002; 80 FR 42368, July 16, 2015]

Subpart B—PHA Plans and Fair Housing Requirements

§ 903.3 What is the purpose of this subpart?

(a) This subpart specifies the requirements for PHA plans, required by section 5A of the United States Housing Act of 1937 (42 U.S.C. 1437c-1) (the Act), as amended.

(b) The purpose of the plans is to provide a strategic planning framework for PHA management operations and capital planning:

(1) Local accountability; and

(2) An easily identifiable source by which public housing residents, participants in the tenant-based assistance program, and other members of the public may locate basic PHA policies, rules and requirements concerning the PHA's operations, programs and services.

(c) Title VII of the Housing and Economic Reform Act, Public Law 110-289, section 2702, amends 42 U.S.C. 1437c-1(b) to provide qualified PHAs an exemption from the requirement of section 5A of the Act to submit an annual PHA Plan. The term "qualified PHA" means a public housing agency that meets the following requirements:

(1) The sum of the number of public housing dwelling units administered by the agency, and the number of vouchers under section 8(o) of the United States Housing Act of 1937 (42 U.S.C. 1437f(o)) administered by the agency, is 550 or fewer; and

(2) The agency is not designated under section 42 U.S.C. 1437d(j)(2) as a troubled public housing agency, and does not have a failing score under SEMAP during the prior 12 months.

[78 FR 63770, Oct. 24, 2013]

§ 903.4 What are the public housing agency plans?

(a) *Types of plans.* There are two public housing agency plans. They are:

(1) The 5-Year Plan (the 5-Year Plan) that a public housing agency (PHA) must submit to HUD once every five PHA fiscal years. The 5-Year Plan covers the five PHA fiscal years immediately following the date on which the 5-Year Plan is due to HUD; and

(2) The Annual Plan (Annual Plan) that the PHA must submit to HUD for each fiscal year immediately following the date on which the Annual Plan is due to HUD and for which the PHA receives:

(i) Section 8 tenant-based assistance (under section 8(o) of the U.S. Housing Act of 1937, 42 U.S.C. 1437f(o)) (tenant-based assistance); or

(ii) Amounts from the public housing operating fund or capital fund (under section 9 of the U.S. Housing Act of 1937 (42 U.S.C. 1437g) (public housing)).

(b) *Format.* HUD may prescribe the format of submission (including electronic format submission) of the plans.

HUD also may prescribe the format of attachments to the plans and documents related to the plan that the PHA does not submit but may be required to make available locally. PHAs will receive appropriate notice of any prescribed format.

(c) *Applicability.* The requirements of this subpart only apply to a PHA that receives the type of assistance described in paragraph (a) of this section.

(d) *Authority for waivers.* In addition to the waiver authority provided in § 5.110 of this title, the Secretary may, subject to statutory limitations, waive any provision of this title on a program-wide basis, and delegate this authority in accordance with section 106 of the Department of Housing and Urban Development Reform Act of 1989 (42 U.S.C. 3535(q)) where the Secretary determines that such waiver is necessary for the effective implementation of this part.

§ 903.5 When must a PHA submit the plans to HUD?

(a) *5-Year Plan.* (1) The first PHA fiscal year that is covered by the requirements of this part as amended on December 22, 2000, is the PHA fiscal year that begins October 2001. This 5-Year Plan submitted by a PHA must be submitted for the 5-year period beginning October 1, 2001.

(2) For all PHAs, the first 5-Year Plans are due 75 days before the commencement of their fiscal year.

(3) For all PHAs, after submission of their first 5-Year Plan, all subsequent 5-Year Plans must be submitted once every 5 PHA fiscal years, no later than 75 days before the commencement of the PHA's fiscal year. However, HUD may require that half of all PHAs with less than 250 public housing units submit their 5-Year Plan one fiscal year in advance (in the fourth PHA fiscal year rather than the fifth PHA fiscal year).

(4) PHAs may choose to update their 5-Year Plans every year as good management practice and must update their 5-Year Plans that were submitted for PHA fiscal years beginning before October 1, 2001, to comply with the requirements of this part as amended on December 22, 2000, at the time they submit their next Annual Plan for fiscal years beginning on or after October